

Showing Current Law as Amended by H.R. 215, the “Working to Advance Tangible and Effective Reforms for California Act” or the “WATER for California Act”

[new text highlighted in yellow; text to be deleted bracketed and highlighted in blue]

Section 4004(a) of the Water Infrastructure Improvements for the Nation Act (Pub. L. No. 114-322)

(a) RESOLUTION OF WATER RESOURCE ISSUES.—In furtherance of the policy established by section 2(c)(2) of the Endangered Species Act of 1973, that Federal agencies shall cooperate with State and local agencies to resolve water resource issues in concert with conservation of endangered species, in any consultation or reconsultation on the coordinated operations of the Central Valley Project and the State Water Project, the Secretaries of the Interior and Commerce shall ensure that any public water agency that contracts for the delivery of water from the Central Valley Project or the State Water Project that so requests shall—

(1) have routine and continuing opportunities to discuss and submit information to the action agency for consideration during the development of any biological assessment or proposed action;

(2) be informed by the action agency of the schedule for preparation of a biological assessment or proposed action;

(3) receive a copy of the proposed action and have the opportunity to review that document and provide comment to the action agency, which comments shall be afforded due consideration during development;

~~[(3)]~~ (4) be informed by the consulting agency, the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, of the schedule for preparation of the biological opinion at such time as the biological assessment is submitted to the consulting agency by the action agency;

~~[(4)]~~ (5) receive a copy of any draft biological opinion and have the opportunity to review that document and provide comment to the consulting agency through the action agency, which comments will be afforded due consideration during the consultation;

~~[(5)]~~ (6) have the opportunity to confer with the action agency and applicant, if any, about reasonable and prudent alternatives prior to the action agency or applicant identifying one or more reasonable and prudent alternatives for consideration by the consulting agency; and

~~[(6)]~~ (7) where action agency proposes a proposed action or the consulting agency suggests a reasonable and prudent alternative be informed—

(A) how each component of the proposed action or alternative will contribute to avoiding jeopardy or adverse modification of critical habitat and the scientific data or information that supports each component of the alternative; and

(B) why other proposed ~~[alternative actions]~~ actions or alternatives that would have fewer adverse water supply and economic impacts are inadequate to avoid jeopardy or adverse modification of critical habitat.

Section 4013 of the Water Infrastructure Improvements for the Nation Act (Pub. L. No. 114-322)

SEC. 4013. DURATION.

This subtitle shall expire on the date that is 5 years after the date of its enactment, with the exception of—

- (1) [section 4004, which shall expire 10 years after the date of its enactment;]
section 4004, which shall expire on December 16, 2033; [and]
- (2) section 4007, which (except as provided in paragraph (3)), shall expire on December 31, 2028; and
- [(2)] (3) projects under construction in sections 4007, 4009(a), and 4009(c).

Section 40902(a) of the Infrastructure Investment and Jobs Act (43 U.S.C. 3202)

§3202. Water storage, groundwater storage, and conveyance projects

(a) Eligibility for funding

(1) Feasibility studies

(A) In general

A feasibility study shall only be eligible for funding under section 3201(1) of this title if—

- (i) the feasibility study has been authorized by an Act of Congress before November 15, 2021;
- (ii) Congress has approved funding for the feasibility study in accordance with section 4007 of the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322) before November 15, 2021; or
- (iii) the feasibility study is authorized under subparagraph (B).

(B) Feasibility study authorizations

The Secretary may carry out feasibility studies for the following projects:

- (i) The Verde Reservoirs Sediment Mitigation Project in the State of Arizona.
- (ii) The Tualatin River Basin Project in the State of Oregon.

(2) Construction

A project shall only be eligible for construction funding under section 3201(1) of this title if—

- (A) an Act of Congress enacted before November 15, 2021, authorizes construction of the project;
- (B) Congress has approved funding for construction of the project in accordance with section 4007 of the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322) before the date of enactment of [this Act, except for any project for which-] this Act; or
 - [(i) Congress did not approve the recommendation of the Secretary for funding under subsection (h)(2) of that section for at least 1 fiscal year before November 15, 2021; or
 - (ii) State funding for the project was rescinded by the State before November 15, 2021; or]

(C)(i) Congress has authorized or approved funding for a feasibility study for the project in accordance with clause (i) or (ii) of paragraph (1)(A) [(except that projects described in clauses (i) and (ii) of subparagraph (B) shall not be eligible)]; and

(ii) on completion of the feasibility study for the project, the Secretary-

(I) finds the project to be technically and financially feasible in accordance with the reclamation laws;

(II) determines that sufficient non-Federal funding is available for the non-Federal cost share of the project; and

(III)(aa) finds the project to be in the public interest; and

(bb) recommends the project for construction.

Section 4010(b)(5) of the Water Infrastructure Improvements for the Nation Act (Pub. L. No. 114-322)

(5) CONSERVATION FISH HATCHERIES.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this subtitle, the Secretaries of the Interior and Commerce, in coordination with the Director of the California Department of Fish and Wildlife, shall develop and implement as necessary the expanded use of conservation hatchery programs to enhance, supplement, and rebuild Delta smelt and Endangered Species Act-listed fish species under the smelt and salmonid biological opinions.

(B) REQUIREMENTS.—The conservation hatchery programs established under paragraph (1) and the associated hatchery and genetic management plans shall be designed—

(i) to benefit, enhance, support, and otherwise recover naturally spawning fish species to the point where the measures provided under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) are no longer necessary; and

(ii) to minimize adverse effects to Central Valley Project and State Water Project operations.

(C) PRIORITY; COOPERATIVE AGREEMENTS.—In implementing this section, the Secretaries of the Interior and Commerce—

(i) shall give priority to existing and prospective hatchery programs and facilities within the Delta and the riverine tributaries thereto; and

(ii) may enter into cooperative agreements for the operation of conservation hatchery programs with States, Indian tribes, and other nongovernmental entities for the benefit, enhancement, and support of naturally spawning fish species.

(D) SEMI-ANNUAL REPORT.—The Secretary of the Interior and the Secretary of Commerce shall submit to the Committee on Natural Resources of the House of Representatives and Committee on Energy and Natural Resources of the Senate semi-annual reports that detail activities carried out under this paragraph.

Section 4007 of the Water Infrastructure Improvements for the Nation Act (Pub. L. No. 114-322)

(b) FEDERALLY OWNED STORAGE PROJECTS.—

(1) AGREEMENTS.—On the request of any State, any department, agency, or subdivision of a State, [or any public agency organized pursuant to State law] any public agency organized pursuant to State law, or any stakeholder, the Secretary of the Interior may negotiate and enter into an agreement on behalf of the United States for the design, study, and construction or expansion of any federally owned storage project in accordance with this section.

(i) SUNSET.—This section shall apply only to federally owned storage projects and State-led storage projects that the Secretary of the Interior determines to be feasible before [January 1, 2021] January 1, 2028.
